

Honolulu, Hawaii

MAR 16, 2018

RE: S.B. No. 3104
S.D. 2
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Health & Human Services, to which was referred S.B. No. 3104, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO PHARMACY BENEFIT MANAGERS,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Establish requirements for pharmacy benefit managers and maximum allowable cost, including the ability of pharmacies to receive comprehensive maximum allowable cost lists and bring complaints, within the purview of the Department of Commerce and Consumer Affairs, rather than the Department of Health;
- (2) Require pharmacy benefit managers to disclose where an equivalent drug can be obtained at or below the maximum allowable cost when a maximum allowable cost is upheld on appeal;
- (3) Allow contracting pharmacies to reverse and rebill claims if the pharmacy benefit manager establishes a maximum allowable cost that is denied on appeal; provided that the pharmacy benefit manager pays the difference to the contracting pharmacies;



- (4) Clarify the available penalties for violations of maximum allowable cost requirements; and
- (5) Delete a requirement prohibiting a contracting pharmacy from disclosing the maximum allowable cost list and related information to any party.

Molokai Drugs, Inc.; Times Pharmacy; Northshore Pharmacy; Shiigi Drug Co., Inc.; Waimanalo Pharmacy Inc.; The Queen's Health Systems; KTA Super Stores; Hawaii Pharmacists Association; Oahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i; Kamehameha Pharmacy; BB Inc.; R. Weinstein, Inc.; and many individuals supported this measure. The Department of Commerce and Consumer Affairs, Hawaii Medical Service Association, CVS Health, and Express Scripts provided comments on this measure.

Your Committee has amended this measure by:

- (1) Deleting the requirement that a pharmacy benefit manager include information identifying any national drug pricing compendia or other data sources for the maximum allowable cost list in the contract information with a contracting pharmacy;
- (2) Deleting the requirement that a pharmacy benefit manager make available a comprehensive report not less than once per quarter;
- (3) Requiring that a pharmacy benefit manager provide a maximum allowable cost list in an accessible and secure electronic or usable web-based format to a contracting pharmacy upon request;
- (4) Changing the frequency in which a pharmacy benefit manager shall review and make necessary adjustments to the maximum allowable cost of each drug on a maximum allowable cost list from only once every 14 days to at least once every seven days;
- (5) Removing the requirement that a pharmacy benefit manager reimburse a contracting pharmacy and notify all contracting pharmacies based on changes to the maximum allowable cost;

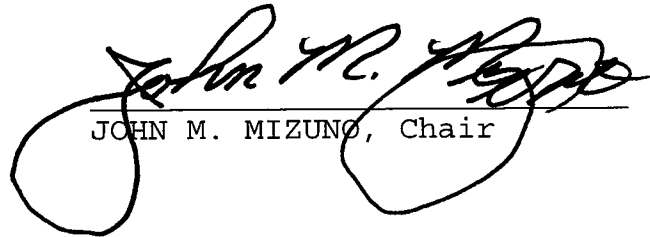


- (6) Removing the requirement that a pharmacy benefit manager provide the name of the source where a drug may be purchased, if a maximum allowable cost of the drug is upheld on appeal;
- (7) Clarifying that a contracting pharmacy may reverse and rebill the appealed claim, if the maximum allowable cost is not upheld on appeal;
- (8) Deleting the provision deeming a pharmacy benefit manager has engaged in unfair or deceptive act or practice when the pharmacy benefit manager refuses a maximum allowable cost reimbursement for a properly documented claim by allowable cost reimbursement for a properly documented claim by a contracting pharmacy;
- (9) Preserving the prohibition that a contracting pharmacy shall not disclose to any third party the maximum allowable cost list;
- (10) Clarifying that the Insurance Commissioner may adopt rules pursuant to Chapter 91 to enforce the provisions of this measure;
- (11) Changing the effective date to July 1, 3000, to promote further discussion; and
- (12) Making technical, non-substantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Health & Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3104, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3104, S.D. 2, H.D. 1, and be referred to your Committee on Consumer Protection & Commerce.



Respectfully submitted on
behalf of the members of the
Committee on Health & Human
Services,



JOHN M. MIZUNO, Chair



